

DEPARTMENT OF INDUSTRIAL RELATIONS

OFFICE OF THE DIRECTOR
455 Golden Gate Avenue, Tenth Floor
San Francisco, CA 94102
(415) 703-5050



August 6, 2001

Valerie Wilson, Management Analyst
County of Los Angeles
Office of Contract Compliance
600 South Spring Street, Suite 1300
Los Angeles, CA 90014

Re: Public Works Case No. 2000-078
Rosewood Avenue/Willoughby Avenue Sewer Interceptor
City of Los Angeles

Dear Ms. Wilson:

This constitutes the determination of the Director of Industrial Relations regarding coverage of the above-referenced project under California's prevailing wage laws and is made pursuant to Title 8, California Code of Regulations, section 16001(a). Based on my review of the facts of this case and an analysis of the applicable law, it is my determination that the hauling of dirt by employees of Pacific Coast Trucking ("Pacific") is a public work subject to the payment of prevailing wages.

The City of Los Angeles ("City") entered into a written contract on January 21, 2000 with Mladen Buntich Construction Co., Inc. ("Buntich"), for the installation of approximately two miles of 54-inch sewer pipe below City's streets. To properly execute its part of the contract, Buntich was required to remove the excess dirt displaced by the installation of the sewer pipeline. To assist Buntich in the disposing of this excess dirt, Buntich retained Pacific to haul the dirt from the site to various landfills in the area. Most of the dirt was dumped in several different landfills identified in correspondence to this Department. Buntich did not have to pay for the dumping of this dirt at the various landfills because it was needed by the landfills to cover garbage.

In the beginning, the dirt extracted for the placement of the pipeline was immediately placed onto Pacific trucks for off-hauling. Because a significant portion of the dirt contained water, it had to first be stockpiled on the site to dry out before it was off-hauled to the landfills. In these circumstances, Buntich removed the dirt from the trenches and placed it into the Pacific trucks. Pacific then dumped the wet dirt on-site for drying. Later, Buntich reloaded the stockpiled dirt into the Pacific trucks for off-hauling.

000421

Letter to Valerie Wilson
Re: Public Works Case No. 2000-078
August 6, 2001
Page 2

Labor Code section 1720(a)¹ generally defines "public work" to mean: "construction, alteration, demolition or repair work done under contract and paid for in whole or in part out of public funds...." Section 1772 provides that "Workers employed by contractors or subcontractors in the execution of any contract for public work are deemed to be employed upon public work."

No one questions that the installation of the sewer line is a public work under section 1720(a). It is construction and alteration performed under a written contract paid for with public funds.

The hauling work performed by Pacific is also public work because it is performed in the execution of the on-site public work. For this reason, prevailing wages must be paid to the Pacific drivers, who not only hauled the dirt from the trenches to the drying area, but off-hauled the dirt to the landfill dumps. This conclusion is consistent with a recent precedential determination.²

You also asked whether the hauling work was a public work as defined under section 1720.3. Section 1720.3 provides: "'public work' also means the hauling of refuse from a public work site to an outside disposal location, with respect to contracts involving...any political subdivision of the state." Here, the dirt is being off-hauled to a dumping site pursuant to a larger public work. The issue that arises is whether the dirt is considered "refuse." Refuse is defined as the "worthless or useless part of something" (Webster's Third New International Dictionary, (3d ed. 1967) p. 1910). Because the dirt excavated from the trenches is being put to a useful purpose, i.e., the covering of the garbage at the landfill sites, it would not be considered refuse under these circumstances. A fact that clearly supports this conclusion is that Buntich was not charged for dumping the dirt at the landfills. The landfills were in need of the dirt deposits. Therefore, in this limited situation, section 1720.3 could not be utilized to find work performed by Pacific employees to be a public work.

¹ All subsequent statutory references are to the Labor Code.

² See Precedential Public Works Case No. 99-081, Granite Construction Company, Contract No. SM-0011(1), March 16, 2000.

Letter to Valerie Wilson
Re: Public Works Case No. 2000-078
August 6, 2001
Page 3

I hope this determination satisfactorily answers your inquiry.

Sincerely,

Stephen J. Smith BY *Chuck Lake*
Stephen J. Smith
Director

000423